

ORIGINAL

1 **WILLIAM J. WHITSITT**  
 2 **335 W. CLOVER ROAD**  
 3 **TRACY, CA 95376**  
 4 **209-993-7178**  
 5 **whitsittw@gmail.com**

6 **IN PROPERIA PERSONA**

**FILED**

FEB 17 2016

SUSAN Y. SOONG  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

**IN UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA - SAN FRANCISCO**

9 **WILLIAM J. WHITISTT**

10 -----VS-----

11 **TELSA MOTORS**

12 **M.B. H.R. REP. TELS A MOTORS, INC.**

13 **WEST VALLEY STAFFING GROUP**

14 **25 UNNAMED DEFENDANTS**

NO:  
**CV16**

**797**

**COMPLAINT**  
**ADEA AND RETALIATION**  
**DENIAL OF MY COMMON**  
**LAW RIGHT CONTRACT**  
**TRADING OF MY LABOR**

**(I.) - INTRODUCTION - MY ADEA AND RETALIATION COMPLAINT.**

17 I William J. Whitsitt, do hereby come to this Court demanding At-Law, at Common Law Jurisdiction.  
 18 I come seeking and demanding for a Remedy At-Law at the Common for my deprivation of my Common  
 19 Law rights and of-law and at Equity remedy for deprivation of my civil and constitutional rights. I do  
 20 claim all my rights At-Law at the Common Law and right of law and Equity my civil and constitutional  
 21 rights. I come seek a remedy at the Common Law to defend my Inalienable right to contract the trading  
 22 of my Labor for compensation my right to work. I further come to defend my rights under the Federal  
 23 and California State Constitutions against unlawful and wrongful discrimination against me because my  
 24 age of over (40) years old (ADEA); my right to contract my right to work and equal protection of the  
 25 laws. I seek a remedy for deprivation of my Right to contract my Labor (right to work) by denial of  
 26 inalienable right to equal protection equal opportunities and equal rights under the laws.

**(A.) - Jurisdictional Facts.**

25 Here are the Jurisdictional Facts of my claims in my matter:

**(1.) - Age ADEA Discrimination Jurisdictional Facts.**

26 I was born 10/02/1954, and I am (61) years old and that age when all the discrimination facts where  
 27 caused. I have over (35) years of **manufacturing, Machine Operation, General Warehousing and**  
 28 **Forklift, Shift Supervisory and Quality Control and Final Inspection** experience. In fact M.B. the

1 **Telsa Motors H.R. Representative** stated that I was more than qualified for the Job Openings. I was  
 2 **only told the Telsa Motors H.R. Representative M.B. Initials.** When I asked and demanded for her  
 3 name they refused to disclose that Information to which I have the Federal and California State right  
 4 to disclosure of. I served Numerous Notices of OBJECT, protest and my facts about Discrimination  
 5 under ADEA and Retaliation and Unlawful Black listing, Denial and deprivation of my Common  
Law At-Law right to contract and 14<sup>th</sup>, Amendment Right and California State Constitutional right  
to Contract. They did not respond and really investigate.

## 6 **(2.) - Federal Court Jurisdiction AT-Law, at the Common Law and Civil Right.**

7 I come to this Federal District Court Demanding for and pleading for Common Law, At-Law and  
 8 my constitutional and civil rights Jurisdiction. See: See: **Brooks v. Norris, 11 How 204, 13 L. Ed. 665.** At  
 9 the Common Law, is the prohibition against prejudice by Admiralty - Civil Law Jurisdiction. See: **Ramsay**  
 10 **v. Allegre, 25 U.S. 611, 6 L. Ed. 746, 12 Wheat. 611 (1827).** The Common Law of California is the law  
 11 of the California and State Constitution, it is still the law of decision of the State Constitution. See: **Gray**  
 12 **v. Sutherland, (1954), 124 C.A.2d 280, 268 P.2d 754.** In actions in the Federal Court in a territory, the  
 13 **Common Law is the rule of decision.** See: **Pyeatt v. Powell, 51 Fed. 551, 2 C. C. A. 367.** The Common- Law  
 14 rule of decision in a federal Court is that of the State in which it is sitting. See: **Lorman v. Clarke, 2**  
 15 **McLean 568, Fed. Cas. No. 8,516.** No Court can refuse to hear At-Law at the Common Law claims.  
 16 A Writ of Error (Writ of Right) lies at denial at Denial of At-Law, at the Common Law claims. “§  
 17 237 of the Judicial Code (USC Title 28, § 344), lie in the fact that a Writ of Error is granted as of Right  
 18 while Certiorari is granted or refused, in the exercise of sound discretion.” **Philadelphia & R. Coal & I. Co. v.**  
 19 **Gilbert, 245 U.S. 162, 38 S. Ct. 58, 62 L. Ed. 221 (1917);** A writ of error is a writ of right which is grantable ex  
 20 debito justitia; **Skip with v. Hill, 2 Mass. 35.** “The right to an appeal or writ of error cannot be refused..” Also  
 21 an Appeal is of right. Thus, so much for just passing off real errors of law at the District Court and  
 22 the 9<sup>th</sup> Circuit, with little or no chance of Supreme Court review

## 18 **(1.) - Venue.**

19 First of all Venue is correct, as I am a Citizen and resident of San Joaquin County of the State of  
 20 California. Which is within the territorial Jurisdictional boundaries of the Eastern District of California.

## 20 **(2.) - Federal Question Jurisdiction.**

21 The Federal Court has Jurisdiction by virtue of Federal Question Jurisdiction. As this Question  
 22 of Federal Statute ADEA, is a Federal Question. **Title 28, Section 1331.**

## 22 **(3.) - Civil Rights Act Jurisdiction.**

23 The ADEA, and Civil Rights Act, grants Statutory Jurisdiction to the Federal District Court. See:  
 24 **Title 28, Section 1343(3),(4). See: Chapman v. Houston Welfare Rights Organization Gonzalez, 441**  
**U.S. 600, 99 S. Ct. 1905, 60 L. Ed.2d 508 (1978).**

25 “§ 1343(3) ...federal district courts have jurisdiction over civil actions 'authorized by law' claiming a deprivation,  
 26 under color of state law, of rights 'secured by the Constitution of the United States or by any Act of Congress  
 27 providing for equal rights,' and under § 1343(4) have jurisdiction over such actions seeking relief under 'any  
 28 Act of Congress providing for the protection of civil rights, including the right to vote.' **See: Chapman v.**  
**Houston Welfare Rights Organization Gonzalez, 441 U.S. 600, 99 S. Ct. 1905, 60 L. Ed.2d 508 (1978).**

In conferring Jurisdiction upon the Federal District Courts, for all Civil Actions for Equal Rights

under **28 U.S.C. Section 1343(3)**; and seeking relief under any act of Congress for protection of Civil Rights. It also is important to Note that once Jurisdiction of Federal District Court has been Invoked, that Court Cannot Refuse Invoked Jurisdiction, when Congress has Granted Statutory Jurisdiction. **I thus, do Invoke the At-Law, at the Common Law Jurisdiction of this Federal Court.**

#### **(4.) - Subject Matter Jurisdiction.**

The Subject Matter Jurisdiction is ADEA. See: **29 U.S.C. Sect. 623(a) (ADEA)**. This does Grant the Federal District Court Subject Matter Jurisdiction. Thus, this Federal District Court has Jurisdiction by several different Statutory Congressional grants this Court Statutory and Subject Matter Jurisdiction. The Venue is Correct for Territorial Jurisdiction. Thus, this Federal District Court has Jurisdiction. I need not file or exhaust all Administrative remedies before I file suit in Federal Court under ADEA. See:

**Crossman v. Crosson, E.D. N.Y. 1995, 905 F. Supp. 90, Affirmed, 101 F.3d 684. See also: Castle v. Sangamo Weston, Inc., CA 11 (Fla.) 1984, 744 F.2d 1464; Burns v. Equitable Life Assur. Soc. Of US, S.D. N.Y. 1982, 530 F. Supp. 768, Affirmed, 696 F.2d 21, Cert. Den., 464 US 933, 104 S. Ct. 336.**

Also Jurisdiction is Granted to the U.S. District Court by **42 U.S.C. § 2000e2** and the retaliation for making discrimination claim, See: **Civil Rights Act of 1964, § 704(a), as amended, 42 U.S.C.A. § 2000e-3(a)**. By Act of Congress and Statutory Authority, Federal District Court has Jurisdiction. **LET THE COURT AND ALL CONCERNED KNOW THAT EEOC ISSUED RIGHT TO SUE.** I will only show this upon demand. Let notice be taken here, that I do not need to exhaust all administrative remedies with EEOC in ADEA. See:

#### **(B.) - History of Facts and Factual Statements.**

##### **PRE-SCREENING INTERVIEW WITH RAY AT WEST VALLEY STAFFING IN PLEASANTON. 10/28/15 AT 10:40AM.**

Interviewed with Ray of West Valley Staffing Group 10/28/2015 at about 10:40AM. This was the initial pre-screening interview before interview at Telsa Motors. I asked Ray: **"Is my age of protected classification over the age of (60) going to present a problem with you and Telsa Motors."** (Ray) stated **NO, not at all.** I started to get very concerned with my considerably younger friend got an email with the interview day and time before me 10/30/2015. He stated to me Bill you may want to call West Valley Staffing Group and ask them about this. I also left this in a phone message on: 10/30/2015 at 1:40PM. **"Is my age of protected classification over the age of (60) going to present a problem with you and Telsa Motors."**

##### **INTERVIEW AT TELSA MOTORS TRAINING CENTER FRIDAY 11/6/2015 AT 9AM)**

My interview time was at 10AM on Friday 11/6/2014. My Friend who is considerably younger had the same time. We showed up very early around 7:45AM and waited in the parking lot until we where let into the building for interviewing which was at 9AM, they let me in also because they stated first come first served for interviewing. Note out of 300 or so Applicants at the interview that day only 1 other lady was over (50) years old. There was only 1 or 2 applicants over the age of (45) or so there also, what I took notice of. **We the oldest had to wait until all the considerably younger where interviewed first. I was the oldest and I believe I was last to be interviewed.** I was interviewed by Telsa Motors HR Rep M.G. is all she stated. I spent only about 5 minutes with her interviewing. When she first looked at me she gave me the most bad look and face expression that I have experienced and it was like she said to me out loud: **What are doing here wasting my time you old over the hill dinosaur and why do you just go away and die.** She only asked me how did hear about Telsa Motors? What have you heard about Telsa Motors? Tell me about yourself? I answered all those questions briefly and to the point professionally and accurately. She then asked me: **"At your AGE can you handle being flexible with having to work different shifts and do the job."** Are you able to stand at one job for up 10 or 12 shifts. I stated to her M.G. at: **My AGE I can do all things and I worked at Kaiser Warehouse long hours every evening Sunday night through Thursday morning and at Amazon.com 5 days a week and other places and my Age will not affect my being able to do the job at Telsa Motors.** She continued to give me that same bad and dirty look like at first and her intent was very clear to me by statement, facial expressions and demeanor all told me I WAS TOO OLD and like a Old Dinosaur I should just go off and die. He facial expressions and statements where very clear and the way she talked me, she was very short, directed and Clearly against me because of my age. She stated clearly AGE. I then asked her politely what was my chances to get hired. The same bad look stated: well I have to meet with many other applicants and I do not know. She stated I will get a call Wednesday or Thursday to let me know if I got the job. She stated very clearly to me "IF", like it meant NO Way your age. With the coldest and most bad look of all. I waited Wednesday and Thursday NO call whatsoever. My considerably younger best friend and worked together at several jobs in the past 3 years got the job at Telsa Motors. I cannot give his name because he fears Telsa Motors or the West

Valley Staffing Group will retaliate against him. I never received any phone call at all telling me yes or no.

**M.B. Telsa Motors H.R. Rep. Statement (11/6/2015 at: Approx 10:15AM): "At your AGE can you handle being flexible with having to work different shifts and do the job."**

I had to Call West Valley Staffing and explained about the Telsa Motors H.R. Rep statement question about my AGE. I was transferred to **Chad Hager** he said his name was **H.R. Generalist for West Valley Staffing Group**. I explained to him all stated here about Telsa Motors and their HR. Representative. **I told him I extremely upset and mad about not being called about hire or no hire and what their Telsa Motors HR Rep stated about my AGE Question**. He listened and I stated to him that I am making a **Discrimination Claim pursuant to their Corporate Anti-Discrimination Policy**. Talked with **Chad Hagggar Monday, 11/16/2015** for about 30 minutes at 9:05 AM to about 9:35AM. Told Chad Hagggar about

I called Chad and left a message **Tuesday 11/17/2015 about 11:15AM, to call me back today and let me know what is happening**. Chad called me back **Tuesday 11/16/2015 at about 4:05 PM**. The phone call ended **4:20PM**.

\* He stated: Telsa Motors HR Rep. stated I was **denied employment because I allegedly stated I wanted to move up to manager some day soon**. That fact I denied never even stated or even inferred this fact or even talked about it. I never mentioned anything about wanting to be a manager or supervisor for Telsa Motors. A blatant lie.

\* Also **she stated turned down for employment**, because I had 4 job listed on my resume in 2 years she seen. This is untrue because I only have Amazon.com for 2014 and Cornerstone Staffing for Kaiser Hospitals Warehouse in 2015, last 2 years. My friend also had 2 jobs stated on his Resume for the past 2 years considerably younger and hired by Telsa Motors. A blatant lie.

\* Also **she stated turned down for employment**, I was telling Telsa Motors how to be efficient. I just told here M.G., I believe in doing the job the best I can do right and I work well with others and that I come to work every day on time. Blatant lie. **I was instructed by Ray not to make any statements about their Telsa Motors efficiency at their interview**.

I objected and stated to Chad Hager all that she said was incorrect and Not true whatsoever and stated to him all the above facts only. I again stated to Chad Hager, She only had 5 questions and those questions stated with:

**"At your AGE can you handle being flexible with having to work different shifts and do the job."**

I again stated thus: **I was denied employment because of my AGE as M.G. stated to me**. Chad only stated further he was just stating what he was told by Telsa Motors H.R. department. He further stated he will talk with my recruiter and set me up with other employers for Jobs. Also he stated to me you are welcome to file with EEOC and suit in court if you so wish to do so. We will continue to look for work for you do through us. Your word stated: **Tuesday 11/16/2015 at about 4:05 PM. I OBJECTED and stated what M.B., Telsa Motors H.R. Rep, told you was a lie and totally Not True**.

\* **Discriminatory Statement: "At your AGE can you handle being flexible with having to work different shifts and do the job."** M.B. Telsa Motors H.R. Rep. Statement (11/6/2015 at: Approx 10:15AM)

\* **Let Notice be taken here that I served Numerous Notices of OBJECT and protest and my facts about Discrimination under ADEA and Retaliation and Unlawful Black listing, Denial and deprivation of my Common Law At-Law right to contract and 14<sup>th</sup>, Amendment Right and California State Constitutional right to Contract. They did not respond.**

\*\*\*LET THE COURT AND ALL CONCERNED EEOC ISSUED RIGHT TO SUE.

## **(II.) - COMMON LAW AT-LAW CLAIMS.**

### **(Claim-A1.) - Denial and deprivation of my Right to Contract by Discrimination.**

I was denied employment by named Defendants because of my Age. (1.) - **Protected classification-** I am over (40) years old (61) at the time of discrimination. (2.) - **Qualified for the Job, Open Position-** I was held more than qualified by West Valley Staffing Group and Telsa Motors H.R. Representative M.B.. See below: (3.) - **I was denied employment because of because of my Age and other Factors of Discrimination**. Notice approximately 400 other considerably younger and less qualified applicants where hired by Telsa Motors. (4.) - **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** Also will have other Evidence and Facts to support this Direct Evidence by Discriminatory statement, to give support a real prima facie case of Discrimination (ADEA). (5.) - **Considerably younger and clearly less**

1 qualified applicants where given favor over me because of my age and I was Not hired. Thus, this  
 2 clearly establishes a prima facie case of ADEA. **Statement by M.B. Telsa Motors H.R. Representative:**  
 3 **"At your age can you handle being flexible with having to work different shifts and do the**  
 4 **job.** All show a clear discriminatory intent of intentional discrimination. See: McDonnell Douglas v. Green,  
 5 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed.2d 668 (1973). Age Discrimination in Employment Act of 1967, §  
 6 4(a)(1), 29 U.S.C.A. § 623(a)(1).

7 **(1.) - Denial of my Common Law inalienable Right to Contract Trading of my right to**  
 8 **Labor.**

9 The right of me to contract the trading of my Labor the Right to Work is the same and or  
 10 equal to that of that of the Employer to hire me, under the Common Law. See: Adair v. United  
 11 States, 208 U.S. 161 (1907). No prerogative exist for an employer to deny Laborer to contract  
 12 their Labor for compensation, without a reason or At-Law, lawful justification and or just cause.  
 13 (Qualifications, work experience and or possible criminal background in crime sensitive areas of Labor  
 14 and proven drug use in drug test. The Equal protection of the laws clause under the 14<sup>th</sup>, Amendment  
 15 is the Common Law equivalent to equal rights and opportunities At-Law and all are equal. All citizens  
 16 At-Law the Common Law, have the equal right to contract the trading of their right to Labor a property  
 17 right for compensation and the right to life and survive. This is my Common Law, and At-Law right  
 18 to contract my Labor trading it for compensation. This is my God-given, absolute, natural and inalienable  
 19 right that existed before Magna Carta. This Common Law, At-Law right was well recognized as my  
 20 right to contract the trading of my Labor and right to work at the framing by our Forefathers at the  
 21 framing our our Constitution. No prerogative exist for hiring a considerably younger and less qualified  
 22 applicant over myself a older and over the age (40), (61) years old applicant and protected classification.

23 **(2.) - Temporary Staffing Agencies are unregulated and do over 70% or more of Hiring.**

24 The real tough question here that needs to be answered is why are Temporary Staffing Agencies who  
 25 do most of all the screening, background checks and the controlling the Probationary period; yet without  
 26 any type of regulations or conditions. Our Congress has sold us out the American Worker and job seeker  
 27 for money, that corporate America has put in their pockets. The U.S. Congress, and own State Legislature  
 28 have left us to fight the Temporary Staffing Agencies and the Courts alone without any real protections.  
 The ADEA and other Discrimination protections are jokes because they the Temporary Staffing Agencies  
 can afford together to retain the best employment professional Counsel money can buy. **Then they have**  
**bought the Courts and Judges with some kind of rewards. This is why Respectfully Judges use**  
**covert labels such as a Vexatious Litigant; as the weapon against the war on fear of truth.** Oh  
 you judges will let the matters by Licensed Counsel be fully heard expediently without delays. Staffing  
 Agencies, that have bought their way of protection and controlling what the Citizenry hears. Thus, by the  
 use of fear of Job loss and not being hired they have covertly taken control. The use of Fear as weapon  
 of warfare, is a well used, established by history tactic of tyranny and covert hidden agendas. Covertly  
 they take control over our money, what they hear, what they see and what they know and control their  
 religion and divide and conquer. I say all this to ask why are Temporary Staffing Agencies whom **"We**  
**The People,"** have granted the privilege to be incorporated not being held to stricter rules of scrutiny?

Thus, all the Temporary Staffing Agencies such as West Valley Staffing can do what they want when they want under the radar, without any regard for constitutional rights and the equal protection of the laws.

**(Claim-A2) - Failure to Protect my Common Law Right to Contract my Labor.**

I must bring the charge of Failure to Protect me and my Civil and constitutional rights from any and all discrimination as required by their written Anti-discrimination Policy. By failure to protect and negligence to their duty to protect from unlawful discrimination and failure to hire me, they in direct deprivation and violation of the ADEA and my civil rights and right to contract. Under ADEA, they have the At-Law duty to protect my Common Law and 14<sup>th</sup>, Amendment right to contract and my civil right against discrimination. Both employer and their agent have a constitutional and Statutory duty to protect me from unlawful discrimination (ADEA). Under the Common Law, At-Law, I have the absolute and unalienable right to At-Law and constitutional protection from unlawful invidious discrimination and other interference and deprivations of my At-Law right to contract the trading of my right to Labor for compensation. My status to contract At-Law at the Common Law, and my right to Liberty puts me above any At-Law at Common Law, of-law, civil rights and or constitutional right deprivations. Invidious acts of discrimination in which 2 or more act with the intent of interference with, depriving of, or any type of actual attempted denial of my inalienable right to contract my right Labor for compensation and my inalienable right to Liberty to contract under the 14<sup>th</sup>, Amendment. At the Common Law, everyone shall have a remedy for a wrong done. All employers, their agents in principle and other agents, governments have a clearly mandated stated constitutional and Common Law duty to protect their workers, employees, subcontractors, their agents and all other from harm, unconstitutional deprivations of their rights. See: **Barrentine v. Arkansas - Best Freight System Inc, 450 U.S. 728, 101 S. Ct. 1437, 67 L. Ed.2d 641 (1981).** Thus, by West Valley Staffing Group; failure to or their refusal to protect me they are showing informed toleration of age harassment constitutes additional evidence of age discrimination. See: **ADEA of 1967, §§ 2-17, 29 U.S.C.A. §§ 621-634. Blake v. J.C. Penney Co., Inc., 894 F.2d 274 (8<sup>th</sup>, Cir. 1990).** The ADEA is remedial and humanitarian and must be liberally construed to effectuate the congressional purpose of the ending age Discrimination in employment. See: **Dartt v. Shell Oil Co., (CA 10), 539 F.2d 1256, Cert. Granted, 429 US 1089, 97 S. Ct. 1097, Affirmed, 434 US 99, 98 S. Ct. 785, 54 L. Ed. 270 (1976).** The Congressional intent here is to clearly place a duty to protect my rights At-Law from unlawful Age discrimination. It is very clearly shown that the Named Defendants have failed in their constitutional and statutory to protect my right to be free from all unlawful discrimination in hiring process.

**(Claim-A3) - Conspiracy of my Common Law Right to Contract my Labor by Invidious Acts of Discrimination.**

Unlawful and unconstitutional acts of invidious discrimination against my protected classification of Citizenship of my At-Law, Common Law right to contract, trading my right to Labor for compensation Under the Common Law, At-Law; is a deprivation by conspiracy under section 1985, by 2 or more. I have the absolute and unalienable right to At-Law and constitutional protection from unlawful invidious discrimination and other interference and deprivations of my At-Law right to contract the trading of my right to Labor for compensation. My status to contract At-Law at the Common Law, and my right to

Liberty puts me above any At-Law at Common Law, of-law, civil rights and or constitutional right to contract, deprivations. Invidious acts of discrimination in which 2 or more act with the intent of actual interference with, depriving of, or any type of actual attempted denial of my inalienable right to contract my right Labor for compensation and my inalienable right to Liberty to contract under the 14<sup>th</sup>, Amend. See: **Coppage v. Kansas, 236 US 1, 59 L. Ed. 441, 35 S. Ct. 240 (1914); Adair v. United States, 208 U.S. 161, 28 S. Ct. 277, 52 L. Ed. 436 (1908).** Thus, becomes intentional, wanton discriminatory acts against my At-Law rights (Common Law) for being a member of protected classification of Citizenship (ADEA). See: **(Common Law Argument, Right to Work - California). Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** Then by failure to protect and the same statement stated in another separate matter of discrimination not on trial in this matter; all point to the showing of the actual deliberate intent on acts of invidious discrimination against my protected classification of Citizenship (ADEA). Then add that Chad Hagggar the H.R. Generalist of West Valley Staffing stated to me do you have any witnesses that heard the **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** They had made certain that we where at least more than 50 feet or more from any other interviews with other Applicants and Telsa Motors H.R. representatives. Thus, it becomes my word which is did hear against (M.B.) H.R. Representative from Telsa Motors. **Thus, they took all the precautions beforehand to protect against any witnesses of any wrong doing or statements.** Chad Hagggar clearly knew all this above, beforehand. Also I asked my Recruiter Ray at the interview and in a Phone message left several days after the first pre-screening interview at West Valley Staffing Group several days before: **"Is my age of protected classification over the age of (60) going to present a problem with you and Telsa Motors.** Stated 10/28/2015 at about 10:40AM at interview. I also stated this again in a Phone message left on 10/30/2015 at: 1:40 PM. Finally on the day before 11/4/2015 about 10:00AM, I received notice by email of the interview at Telsa Motors. I told Chad Hagggar about these stated facts in the Phone conversation on 11/16/15 at about 9:15AM. I have faced this same problem with almost same circumstances many times in the past 10 years or so or more. Chad Hagggar only put on show in attempted to show compliance with their anti-discrimination policy while covertly covering over the real discriminatory intent; to hide their unlawful acts under the color of legitimate business practices. When he tried to covertly hide their unlawful acts under the color of their policy to make it look legitimate. Thus, lying in wait to deny, deprive and to violate, interfere with my Common Law, constitutional right to contract the trading of my right to Labor for compensation and the right to life and survive. Thus, a showing of real intentional, willful callous disregard, spite for my Common Law, At-Law rights. **Also it is a clear showing of pre-conditional and or pre-conceived Motive of intentional, deliberate, knowing and malicious Discriminatory intent. (ill will, spite, callous disregard for my rights).**

### **(1.) - 2 or More With Same Invidious Discriminatory Intent.**

I have established that there are 2 or participants in unlawful, invidious discrimination acts against my Common Law, constitutional and civil rights of my person. My Common Law and constitutional-civil rights are clearly established in unalienable rights At-Law and fully protected by the 14<sup>th</sup>, Amend.

Federal Constitution and Article I, Section 7 and 15 of the California State constitutions. My Common Law unalienable right to Contract the trading my right to Labor property right for compensation and the right to life and survival was established and recognized at the Magna Carta. Thus, by discriminatory motive the named have interfered with and denied my unalienable right to contract my Labor which is my property right for trading it for compensation which is also my property right. Thus, a clear and established right At-Law and constitutional right deprivation. **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** See: (Common Law Argument, Right to Work - California).

**(a.) - Agreement or meeting of minds.**

The agreement and or meeting of minds here is the contractual agreement as employer and hiring agent for them. All the actors of this invidious discriminatory conspiracy acted in the furtherance of this unlawful discrimination against me in deprivation of my Common Law, At-Law and constitutional and civil rights. Thus, acting in furtherance such as: Thus, lying in wait to deny, deprive and to violate, to interfere with my Common Law, constitutional right to contract the trading of my right to Labor for compensation and the right to life and survive. Thus, a showing of real intentional, true willful callous disregard, spite for my Common Law, At-Law, constitutional - civil rights. See: (Common Law Argument, Right to Work - California).

**(2.) - Elements of Invidious Discrimination Conspiracy.**

**(1.) - Protected Citizen of protected classification by Law ADEA.** I am over (40) at (61) year old. I was denied employment by invidious discrimination because I am over (40) years Old and a protected Citizen and classification by law (ADEA). **(2.) - Invidious deprivation of Right At-Law by discrimination.** I was denied my inalienable Common Law, 14<sup>th</sup> Amendment and California State Constitutional Right to Contract the trading of my right to Labor for compensation for right to life and survival because of my age (ADEA) protected classification of Citizen, by Congress under equal protection and opportunities under the Law. **(3.) - Supporting Facts of that deprivation, denial of Inalienable rights At-Law.** Thus, lying in wait to deny, deprive and to violate, to interfere with my Common Law, constitutional right to contract the trading of my right to Labor for compensation and the right to life and survive. Thus, a showing of real intentional, true willful callous disregard, spite for my Common Law, At-Law and constitutional - civil rights. Invidious discrimination and acts of discrimination include denial under the color of Corporate policy acts which actually deny the Common Law right At-Law. My Common Law, At-Law right to contract the trading of my inalienable right to my Labor for the compensation for my right to survival and right to life. My right to contract my Labor is both a Common Law and Federal and California State constitutional right. **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** Then you add the attempted hiding of the deprivation by their policy and untrue statements to covertly hide their deprivations. See: (Common Law Argument, Right to Work - California).

**(III.) - DISCRIMINATION CLAIMS UNDER CIVIL RIGHTS ACT.**

**(Claim-B1.) - ADEA Claim.**

I was denied employment by named Defendants because of my Age. **(1.) - Protected classification-**

I am over (40) years old (61) at the time of discrimination. **(2.) - Qualified for the Job, Open Position-** I was held more than qualified by West Valley Staffing Group and Telsa Motors H.R. Representative M.B.. See below: **(3.) - I was denied employment because of because of my Age and other Factors of Discrimination.** Notice approximately 400 other considerably younger and less qualified applicants where hired by Telsa Motors. **(4.) - Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** Also will have other Evidence and Facts to support this Direct Evidence by Discriminatory statement, to support a real prima facie case of Discrimination (ADEA). **(5.) - Considerably younger, clearly less qualified applicants where given favor over me because of my age and I was Not hired.** This does clearly establishes a prima facie case of ADEA. **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job.** All show a clear discriminatory intent of intentional discrimination. See: McDonnell Douglas v. Green, 411 U.S. 792, 93 S. Ct. 1817, 36 L. Ed.2d 668 (1973). Age Discrimination in Employment Act of 1967, § 4(a)(1), 29 U.S.C.A. § 623(a)(1). Let Notice be taken, here that I did serve all named defendants with numerous Notices of Objection to discrimination in Hiring and my Facts and demand for full investigation per Anti-discrimination Policy.

### **(1.) - Disparate Treatment.**

Out of 400 or so applicants interviewed and hired that day; there was only one other lady over the age of (50) or so and another man over the age of (45) or so. Thus representing and showing of clear disproportionate 99% plus, favoring of considerably younger and less qualified applicants. Clear showing of disparate Treatment of over (40) applicants. **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** This shows a clear showing of Disparate Treatment to and disfavor because of my age over (50) years old. This further shows an actual deliberate intent to disfavor applicants such as myself on that day over the age of (50) years old. I was denied employment by named Defendants because of my Age. **(1.) - Protected classification-** I am over (40) years old (61) at the time of discrimination. **(2.) - Qualified for the Job, Open Position-** I was held to be more than qualified by West Valley Staffing Group and Telsa Motors H.R. Representative M.B.. See below: **(3.) - I was denied employment because of because of my Age and other Factors of Discrimination.** Notice approximately 400 other considerably younger and less qualified applicants where hired by Telsa Motors. **(4.) - Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."**

### **(2.) - Disparate Impact.**

Out of 400 or so applicants interviewed and hired that day; there was only one other lady over the age of (50) or so and another man over the age of (45) or so. Thus representing and showing of clear disproportionate 99% plus, favoring of considerably younger and less qualified applicants. Clear showing of disparate Treatment of over (40) applicants. **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** This shows a clear showing of Disparate Treatment to and disfavor because of my age over (50) years

old. This further shows an actual deliberate intent to disfavor applicants such as myself on that day over the age of (50) years old. The result of that statement was, I was denied employment because of Telsa Motors, Inc., deliberate discriminatory intent. I was denied employment by named Defendants because of my Age. (1.) - **Protected classification**- I am over (40) years old (61) at the time of discrimination. (2.)- **Qualified for the Job, Open Position**- I was held more than qualified by West Valley Staffing Group and Telsa Motors H.R. Representative M.B.. See below: (3.) - **I was denied employment because of my Age and other Factors of Discrimination.** Notice approximately 400 other considerably younger and less qualified applicants were hired by Telsa Motors. (4.) - **Statement by M.B. Telsa Motors H.R. Representative: "At your age can you handle being flexible with having to work different shifts and do the job."** See: Age Discrimination in Employment Act of 1967, § 4(a)(1), 29 U.S.C.A. § 623(a)(1).

### **(3.) - Other Facts to support ADEA claim.**

- \* He stated: Telsa Motors HR Rep. stated I was denied employment because I allegedly stated I wanted to move up to manager some day soon. That fact I denied never even stated or even inferred this fact or even talked about it. I never mentioned anything about wanting to be a manager or supervisor for Telsa Motors. A blatant lie.
- \* Also she stated turned down for employment, because I had 4 job listed on my resume in 2 years she seen. This is untrue because I only have Amazon.com for 2014 and Cornerstone Staffing for Kaiser Hospitals Warehouse in 2015, last 2 years. My friend also had 2 jobs stated on his Resume for the past 2 years considerably younger and hired by Telsa Motors. A blatant lie.
- \* Also she stated turned down for employment, I was telling Telsa Motors how to be efficient. I just told her M.G., I believe in doing the job the best I can do right and I work well with others and that I come to work every day on time. Blatant lie. I was instructed by Ray not to make any statements about their Telsa Motors efficiency at their interview.

I objected and stated to Chad Hager all that she said was incorrect and Not true whatsoever and stated to him all the above facts only. I again stated to Chad Hager, She only had 5 questions and those questions stated with:

- \* **"At your AGE can you handle being flexible with having to work different shifts and do the job."** I again stated thus: I was denied employment because of my AGE as M.G. stated to me. Chad only stated further he was just stating what he was told by Telsa Motors H.R. department. He further stated he will talk with my recruiter and set me up with other employers for Jobs. Also he stated to me you are welcome to file with EEOC and suit in court if you so wish to do so. We will continue to look for work for you do through us. Your word stated: Tuesday 11/16/2015 at about 4:05 PM. I OBJECTED and stated what M.B., Telsa Motors H.R. Rep, told you was a lie and totally Not True.
- \* **M.B. Telsa Motors H.R. Rep. Stated, that I was more qualified to meet stated job requirements, during interview.**
- \* **Pre-screened held qualified by West Valley Staffing Group.**
- \* **Discriminatory Statement: "At your AGE can you handle being flexible with having to work different shifts and do the job."** M.B. Telsa Motors H.R. Rep. Statement (11/6/2015 at: Approx 10:15AM)
- \* **Let Notice be taken here that I served Numerous Notices of OBJECT and protest and my facts about Discrimination under ADEA and Retaliation and Unlawful Blacklisting, Denial and deprivation of my Common Law At-Law right to contract and 14<sup>th</sup>, Amendment Right and California State Constitutional right to Contract. They did not respond.**

### **(4.) - Denial of my Common Law Inalienable Right to Contract Trading of my right to Labor.**

The right of me to contract the trading of my Labor the Right to Work is the same and or equal to that of that of the Employer to hire me, under the Common Law. See: Adair v. United States, 208 U.S. 161 (1907). No prerogative exist for an employer to deny Laborer to contract their Labor for compensation, without a reason or At-Law, lawful justification and or just cause. (Qualifications, work experience and or possible criminal background in crime sensitive areas of Labor and proven drug use in drug test. The Equal protection of the laws clause under the 14<sup>th</sup>, Amendment is the Common Law equivalent to equal rights and opportunities At-Law and all are equal. All citizens

At-Law the Common Law, have the equal right to contract the trading of their right to Labor a property right for compensation and the right to life and survive. This is my Common Law, and At-Law right to contract my Labor trading it for compensation. This is my God-given, absolute, natural and inalienable right that existed before Magna Carta. This Common Law, At-Law right was well recognized as my right to contract the trading of my Labor and right to work at the framing by our Forefathers at the framing our our Constitution. See: **more arguments below and case precedent cites in my Common Law arguments.** Let Notice be taken, here that I did serve all the named defendants with numerous Notices of Objection to discrimination in Hiring and my Facts and demand for full investigation per Anti-discrimination Policy.

**(5.) - Prima Facie Case stated to EEOC as the Additional Information they Requested.**

This Prima Facie Case and Evidence involves West Valley Staffing Group as Agent in hiring for Telsa Motors Inc.,. See Trans World Airlines, Inc. v. Thurston, 469 U. S. 111, at 121, 105 S. Ct. 613, 83 L. Ed.2d 523 (1985); see also: SWIERKIEWICZ v. SOREMA N. A., 534 U. S. 506 (2001). This is material stated as is to the EEOC as part thereof requested additional information, this is quoted information.

Please take note here, the prima facie case framework of McDonnell Douglas does not apply where a Plaintiff can produce direct evidence of discrimination. A discriminatory statement such as: **"At your AGE can you handle being flexible with having to work different shifts and do the job."** The prima facie case here is: (1.) - Over the age of (40) (61) years old. (2.) - I was told my impressive resume with considerable experience that I was more than qualified for the position. M.B. Telsa Motors own H.R. Representative statements. (3.) - Considerably younger and less qualified applicants that where hired over me. A discriminatory statement such as: **"At your AGE can you handle being flexible with having to work different shifts and do the job."** This statement by M.B. Telsa Motors own H.R. Representative, and that I was not hired, shows direct evidence of discriminatory intent. See: Age Discrimination in Employment Act of 1967, § 4(a)(1), 29 U.S.C.A. § 623(a)(1). Reeves v. Sanderson Plumbing Products, Inc., 120 S. Ct. 2097, 147 L. Ed.2d 105 (2000). Thus, this is direct evidence to support a prima facie case of discrimination. (Witness (K) statement) will show that no one over (45 to 50 and older) was hired by Telsa Motors. Out of 500 applicants and new hires, he did not notice anyone over 45 to 50 years old or older hired by West Valley Staffing for Telsa Motors Inc.,. <sup>1</sup>(K) works for Telsa Motors, Inc.. Also see the Charges of Discrimination (Retaliation) brought against West Valley Staffing Group that was transferred to San Jose EEOC office. Served (12/22/2015 at 11:04AM), by Fax to your Oakland Office. West Valley Staffing Group who forwarded my resume and short Application knew my age was (61) on that date of Application and interview with them, because they asked for my age and date of birth on their App sent to Telsa Motors, Inc.. Thus, West Valley Staffing Group, most likely was involved in this Age discrimination action. See: Charges of Discrimination (Retaliation) brought against West Valley Staffing Group that was transferred to San Jose EEOC office. Served (12/22/2015, at 11:04AM), by Fax to your Oakland Office. I believe that West Valley Staffing Group, was also involved in Telsa Motors ADEA, denial of my right to work charges. I now believe that they have a full involvement after what has transpired just about month later with another job I interviewed through West Valley Staffing Group. This following statement by M.B. Telsa Motors own H.R. Representative: "At your AGE can you handle being flexible with having to work different shifts and do the job."

**(a.) - Discriminatory Statement by M.B. proves actual discriminatory intent.**

Statement by M.B. Telsa Motors H.R. Representative: **"At your age can you handle being flexible with having to work different shifts and do the job."** This statement proves an actual discriminatory intent, an actual intent on deliberate acts of discrimination under ADEA. This statement: **At your age**

<sup>1</sup>(K) is person I know who works for Telsa Motors, as a temporary worker through West Valley Staffing Group.

1 **can you handle being flexible with having to work different shifts and do the job.” Is direct proof**  
 2 **and evidence of intentional discrimination and or discriminatory intent.** This is direct evidence to  
 3 show and prove a prima facie case of actual discrimination under ADEA.

4 **(6.) - West Valley Staffing is Hiring Agent for Telsa Motors, Inc..**

5 Let notice be taken here that West Valley Staffing Group is a Hiring and Staffing Agent for Telsa  
 6 Motors, Inc.. Thus, we have Principle and their Agent for them, which are both liable for ADEA and  
 7 unlawful Blacklisting Retaliation. As Agent for and Principle Employer, both are liable agents by written  
 8 contractual agreement. **Let Notice be taken, here that I did serve all named defendants with numerous**  
 9 **Notices of Objection to discrimination in Hiring and my Facts and demand for full investigation per Anti-**  
 10 **discrimination Policy.**

11 **(Claim-B2) - Failure to Protect from Unlawful Discrimination.**

12 I must bring the charge of Failure to Protect me and my Civil and constitutional rights from any  
 13 and all discrimination as required by their written Anti-discrimination Policy. By failure to protect and  
 14 negligence to their duty to protect from unlawful discrimination and failure to hire me, they in direct  
 15 deprivation and violation of the ADEA and my civil rights and right to contract. Under ADEA, they  
 16 have the At-Law duty to protect my Common Law and 14<sup>th</sup>, Amendment right to contract and my civil  
 17 right against discrimination. Both employer and their agent have a constitutional and Statutory duty to  
 18 protect me from unlawful discrimination (ADEA).

19 **(Claim-B3.) - Black Listing Retaliation Claim.**

20 I believe I'm a victim of continued unlawful, unconstitutional and wrongful Blacklisting retaliation.  
 21 I believe that I am a victim of elaborate plan of continued Blacklisting Retaliation because I had made  
 22 past legitimate Discrimination claims. I have made this Claim also in other pending Discrimination suits;  
 23 and I availed myself to the ADEA and Title VII Anti-Retaliation Protection. I believe that most of the  
 24 Employment, Staffing Agencies and private employers have covert and hidden Blacklisting in the denial  
 25 of Employment. I believe that I have been subjected to this cruel and unusual punishment, of the worst  
 26 form of retribution and the retaliation against me because of my refusal; to be scared off from standing  
 27 up against this Unlawful and completely wrongful treatment and aggression. I believe they target all their  
 28 retribution and retaliated against those other applicants like myself, that availed themselves to making past  
 Discrimination and Retaliation claims. Most Employment and Staffing Agencies along with some private  
 Employers do subscribe to that covert, secret and hidden Blacklist of do Not Hire. I have this unlawful  
 Blacklisting claim stated in several other Discrimination lawsuits of which has been filed. This claim is  
 for real and very legitimate and the courts have already known about this for sometime. They call this  
 force to subrogate by fear or force, threat of forced of job loss or joblessness by subrogation. This one  
 tactic in their arsenal of covert retribution; retaliation for coming against their hidden covert agenda of  
 taking control of the job market. You say that this sounds a lot like fantasy but it is not a fantasy it  
 is as real as it gets. The bad thing here is you the Courts and the Government all know that this is  
 real. **Let Notice be taken, here I did serve all named defendants with numerous Notices of Objection**  
**to discrimination in Hiring and my Facts and demand for full investigation per Anti-discrimination Policy.**

1 **(1.) - Blacklisting because of Past Reputation of Questioning Discriminatory Hiring**